

DRAFT MINUTES
New Source Review Retooling Advisory Group
Meeting 3, October 2, 2003, Madison, WI

Advisory Group Participants: Renee L. Bashel, Dept. of Commerce; Jeff Burger, DNR Southeast Region; Lloyd Eagan and Jeff Hanson, DNR Bureau of Air Management; Myron Hafele, Kohler Co.; Hank Handzel, DeWitt Ross & Stevens, for Wisconsin Paper Council; Dave Hildreth, DNR Northeast Region; Rick Osa, STS Consultants; Michele Pluta, Alliant Energy; Annabeth Reitter, StoraEnso; Jeff Schoepke, Wisconsin Manufacturers & Commerce; Thomas T. Stocksdale, S.C. Johnson; Mark Thimke, Foley & Lardner; Paul White (for Jon Konings), We Energies. *Absent:* Howard Hofmeister, Bemis Co.; Imelda Stamm, DNR Northeast Region.

Others: Todd Palmer, DeWitt, Ross & Stevens; Marcia Penner, DNR Legal Services; Gary Van Helvoirt, Wisconsin Public Service Corp.; Ed Wilusz, Wisconsin Paper Council; Neil Howell, WI Dept. of Administration; Bernie Evans, ERM; Elizabeth Kluesner, DNR Executive Assistant; John Shenot, DNR Cooperative Environmental Assistance; Darin Harris, DNR Bureau of Management & Budget (facilitator) Steve Dunn, Caroline Garber, Anne Urbanski (note taker), DNR Bureau of Air Management.

Handouts/overheads: Available at <http://www.dnr.state.wi.us/org/aw/air/hot/nsr/oct022003/>

Next meeting: Wednesday, October 8, 2003, from 9:00 a.m. to 1:00 p.m. in Room 027, GEF 2, 101 S. Webster St., Madison, WI

Discussion

Welcome/Introductions: Darin Harris noted that three of the six handouts had not been sent out previously by email; these were Jeff Hanson's overheads on NR 405 markup and applicability tests and a list of the advisory group's interests.

Review of previous minutes: Hank Handzel offered a handwritten correction; he should be listed as "representing the Wisconsin Paper Council."

Applicability test proposals -- Jeff Hanson and DNR staff developed proposals for items 13-18 (see <http://www.dnr.state.wi.us/org/aw/air/hot/nsr/sep172003/nsr030917minutes.pdf>, page 4). Each of DNR's proposals tries to address one or more interests agreed upon by the group (clarity/bright line; operational flexibility; include minor sources; reduce administrative burden; improve consistency; make Air programs useable for business; protect public health, specifically improve air resources in non-attainment areas, and protect increment). Darin noted Jeff wanted to go through all the proposals first then go through each one in detail. During the detailed discussion of each proposal, participants were encouraged to offer their own proposals. After discussion of each proposal and its related counter-proposals, Darin took a straw poll of advisory group members to determine which options they could live with. Straw poll results follow each proposal outlined below.

Item 13 (and 18 rolled together) – Representative Time Period. Refers to the lookback period in NR 405.02(2m)(ii). DNR Proposal - Pick a 24 month period in past 5 years. Use current emissions factors with past production rates. No adjustment for demand based capability within the baseline. DNR feels this proposal provides clarity and bright line; provides consistency with Title V etc., usability, and is protective.

STRAW POLL on Item 13 proposals (numbered; bullet = EPA rule language) and the number of people who could “live with” each proposal. *Please note that the following does not constitute an official “vote” or decision of the committee, but provides DNR with a relative sense for how viable various options are before drafting rules and going for public review. Here is the poll (the total number of people participating were 15 for most issues):

- The rule as proposed by EPA – 12 votes
- 1- DNR proposed option – any consecutive 2 years (24 months) out of last 5 years – 3 votes (DNR only, not including Dave Hildreth)
- 2- 2 years in the past 10 with option for 2 in 5 if so desire – 11 votes
- 3- 2 years in past 5 with ability to petition DNR for 2 in 10 – 3 votes
- ~~4- Use equipment depreciation schedule based on IRS model – 0 – strike~~
- 5- Use 2 years out of 10, lookback and projection, delete demand equation – 5 and 2 plus a simple demand equation or industry elects to go with 10 and 2 and uses demand equation in the rule – 4 votes

Darin noted that no DNR representative agreed with the EPA rule language. Would DNR include 3 of these as options in the rule package? Lloyd said that in the recent past, DNR submitted 2-3 options for an ozone rule and could submit this rule package in a similar fashion.

Item 14 – Start-up, shutdown and malfunctions (SSM). Refers to ss. NR 405.02(2m)(ii)(a) and NR 405.02(25f)(ii)(b). DNR proposal – same number of SSMs – whatever number a company used in baseline calculation must be used for projected actual emissions calculation up to their allowable emissions limit. Hanson said this proposal addresses consistency, bright line, operational flexibility.

POLL:

- EPA rule as written – 10 votes
- 1 - DNR – use same name as actual past SSMs to project future SSMs – 2 votes
- 2 – Same for projection but exclude non-compliant emissions – 5 votes
- 3 – Same number for malfunctions but not for intentional startups/shutdowns - 1 vote
- 4 – Same number or more for projected forward - e.g. if had 5 SSMs, project more – 4 votes

Item 15 – Different baseline years allowed for different NSR pollutants. Addresses NR 405.02(2m)(ii)(d). Hanson said the EPA rule allows facilities to pick different baseline periods for different pollutants (SO₂, NO_x etc.). DNR proposal – Use same baseline period for all pollutants. Allows bright line; consistency; reduces administrative burden; protects environment.

POLL:

- EPA rule language – 9 votes
- 1 – DNR rule language - 7 votes
- 2 – If use baseline of 2 years out of past 10, must use same baseline for all pollutants – 2 votes
- 3 – Same 2 years for all pollutants unless get an exemption – 4 votes

Item 16 – New Units baseline emissions. Language is in NR 405.02(2m)(ii) in markup. DNR proposal: If unit has 24 months of actual emissions data, it should be used in baseline; if less than 24 months of actual emissions data, use potential to emit. Hanson said DNR’s proposal addresses consistency and bright line, reduces administrative burden, and protects the environment.

POLL:

- EPA as written – 7 votes

1. If new unit has been operating for at least 24 months you can choose 12 months of operation – 9 votes
2. DNR – 24 months of operation – average of two years – 5 votes

Item 17 – Projection period. Addressed in NR 405.02(25f)(i) – EPA says if you’re not changing a unit’s capacity or utilization rate you project out 5 years. If you are changing it, you must project out 10. DNR’s proposal - use projection period consistent with DNR’s proposed lookback, thus 5 years. Putting demand issue aside, this is to be consistent – apply project-to-project; bright line; more usable. Eagan – concept here is that whatever the lookback period is, have the projection period be consistent with that. Also decreases administrative burden.

POLL:

- EPA rule says 5 or 10 depending on effect of change. – 7 votes
1. DNR proposal – years consistent with lookback term – 8 votes
 2. Combo- if use 10 and 2 lookback, must use same baseline years for all pollutants and must apply that to future projected emissions (OR if use 5 and 2, get to pick any 2 years for each pollutant – can shift baseline for different pollutants). – 2 votes
 3. 10 years each way and 2 year baseline but take out demand adjustment – 5 votes

Additional issues to address (including marked up issues people sent in). Review of issues submitted concerning the marked-up NR 405. Hanson said he received 5 marked up rules from 6 folks – Gary Van Helvoirt, Ed Wilusz, Ty Stocksdale, Renee Lesjak Bashel, Paul White and Myron Hafele. (see Jeff’s overheads). Most simply highlighted other sections of rule but didn’t say why had issues. Common areas identified: lookback period; definition of projected actual emissions; clean unit definition; monitoring and reporting (slides 5-8 of Hanson’s presentation “TAG Issues on Markup”). Additional issues mostly arose in definitions area of rule (slides 9-13).

Darin asked whether those comments contained significant policy issues the group had to discuss, or could they be taken care of in wording changes? Stocksdale said s. NR 405.02(24m) basically deals with pollution control projects and presumes that a facility is changing out a piece of equipment. But what if the project doesn’t involve a piece of equipment. Paul White suggested discussing definitions of pollution control project (PCP) – that it really prevents pollution. Hanson said he received comments about notice-and-go on projects that were not listed as PCPs. So the advisory group needs to discuss what is/isn’t a PCP and what is/isn’t an investment. Other than that, the group felt that all the significant policy issues are contained within issues 1-18.

Next steps:

Next meeting is 10/8 – we will tackle PALS issues (9-11, 7 and 8). DNR will come back with proposals by next meeting. Is this process working for you? If you have specific suggestions let Darin know. Mark Thimke asked DNR to let the group know if the STAPPA/ALAPCO menu becomes available before the next meeting. Caroline Garber asked the industry representatives to do some homework and be ready to provide advice to DNR on issue of demand growth. Darin asked people to come prepared with their own proposals for items 9-11, 7 and 8. Will do meeting evaluations next time.

